

TITLE IV - UNAUTHORIZED DISCLOSURES OF
CLASSIFIED INFORMATION

MAR 1983

pt 3.1

SEC. 401. (a) Chapter 37 of title 18, United States Code, is amended by adding at the beginning thereof the following new section:

"§791. Unauthorized Disclosures

- (a) Whoever, being an officer or employee of the United States or a person with authorized access to classified information, willfully discloses, or attempts to disclose, any classified information to a person who is not an officer or employee of the United States and who does not have authorized access to it, shall be fined not more than \$10,000, or imprisoned not more than three years, or both.
- (b) Whoever, being an officer or employee of the United States, willfully discloses any classified information to an officer or employee of the United States with the intent that such officer or employee disclose the information, directly or indirectly, to a person who is not an officer or employee of the United States and who does not have authorized access to it, shall be fined not more than \$10,000, or imprisoned not more than three years, or both.
- (c) As used in this section--
 - (i) the term "classified information" means information or material designated and clearly marked or represented, pursuant to the provisions of a statute or Executive order, as requiring protection against unauthorized disclosure for reasons of national security;
 - (ii) the term "disclose" or "discloses" means to communicate, furnish, deliver, transfer, impart, provide, publish, convey, or otherwise make available;
 - (iii) the term "authorized access" means having authority, right, or permission to receive information or material within the scope of authorized intelligence activities or pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency who is empowered to classify information, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which governs handling of classified information by the respective House of Congress.

TITLE IV

UNAUTHORIZED DISCLOSURES OF
CLASSIFIED INFORMATION

Section 401 amends title 18, United States Code, to provide criminal penalties for willful unauthorized disclosures of classified information by federal employees and others who have authorized access to classified information, such as government contractors. With the narrow exceptions of unauthorized disclosures of atomic energy Restricted Data and communications intelligence/cryptography information, willful unauthorized disclosures of classified information by those entrusted with it by the government are not per se offenses under existing federal criminal statutes.

Subsection (a) prohibits willful disclosure or attempted disclosure of classified information, by a federal civilian or military officer or employee or other person with authorized access to such information, to any person who is neither a federal civilian or military officer or employee nor a person with authorized access to such information. The subsection provides criminal penalties of not more than three years imprisonment or a \$10,000 fine, or both, for such willful unauthorized disclosure of classified information.

Subsection (b) prohibits willful disclosure of classified information by a federal civilian or military officer or employee to another such officer or employee with the intent that the latter disclose the information, directly or indirectly such as through a chain of intermediaries, to a person who is neither a federal civilian or military officer or employee nor a person with authorized access to the classified information. The criminal penalties for such an offense are identical to those provided for the offense defined in subsection (a).

Subsection (c) defines key terms employed in subsections (a) and (b) in defining the offenses of willful unauthorized disclosure. Paragraph (i) defines "classified information" to consist of information or material designated as requiring protection against unauthorized disclosure for reasons of national security pursuant to a statute or Executive order. Paragraph (ii) defines the term "disclose" or "discloses" to include all forms of disclosure enumerated in the existing provisions of 18 U.S.C. §§ 793-798 and 50 U.S.C. § 426. Paragraph (iii) defines the term "authorized access" to include authority or permission to receive information within the scope of authorized intelligence activities or pursuant to the routine security clearance processes of the Executive Branch, orders of the courts of the United States, or rules of either House of Congress. Authorized intelligence activities are those conducted pursuant to statute or Executive order, such as the current Executive Order 12333 governing United States intelligence activities.

Subsection (d) assures that no criminal liability will attach under subsections (a) or (b) to otherwise lawful disclosures. Approved For Release 2009/03/23 : CIA-RDP94B00280R001200030014-8 he courts.

- (d) Nothing in this section shall be construed to establish criminal liability for disclosure of classified information in accordance with applicable law to:
 - (i) any court of the United States, or judge or justice thereof; or
 - (ii) the Senate or House of Representatives, or any committee, subcommittee or joint committee thereof."
- (b) The table of contents of Chapter 37 of title 18, United States Code, is amended to include the following caption:
 - "791. Unauthorized Disclosures".

TITLE IV

UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION

Section 401: Amends title 18, United States Code, by inserting a new section defining willful unauthorized disclosure under certain circumstances of classified information by persons with authorized access to such information as an offense against the United States.